

**BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION**

IN RE:           ULAX Hillwood Pointe, Inc.                   )  
                  Map 102-04-0, Parcel 97.00                 ) Davidson County  
                  Commercial Property                     )  
                  Tax Years 2005 & 2006                   )

**INITIAL DECISION AND ORDER**

**Statement of the Case**

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,440,000	\$6,492,200	\$7,932,200	\$3,172,880

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on January 30, 2007 in Nashville, Tennessee. In attendance at the hearing were registered agent Betty A. Sellers and Robert D. Waites for the appellant, and Davidson County Property Assessor's representative Dennis Donovan, MAI.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Subject property consists of the 180 unit Hillwood Pointe Apartment Complex located at 6430 Charlotte Pike in Nashville, Tennessee.

The taxpayer contended that subject property should be valued at \$7,129,576. In support of this position, the income approach was introduced into evidence. In addition, Ms. Sellers maintained that the current appraisal of subject property does not achieve equalization given the assessor's per unit valuations of other complexes in the area.

The assessor contended that subject property should be valued at \$7,390,000. In support of this position, Mr. Donovan introduced income and sales comparison approaches he asserted support value indications of \$7,200,200 and \$7,667,300 respectively. Mr. Donovan correlated the two indications of value at \$7,390,000.

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate. The value indicators must be judged



in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

In view of the definition of market value, the income-producing nature of the subject property and the age of subject property, generally accepted appraising principles would indicate that the market and income approaches have greater relevance and should normally be given greater weight than the cost approach in the correlation of value indicators.

After having reviewed all the evidence in the case, the administrative judge finds that the subject property should be valued at \$7,250,000. As will be discussed below, the administrative judge finds that the income approach should receive greatest weight, but the sales comparison approach should also be considered in the reconciliation of the indications of value.

The administrative judge finds that Mr. Donovan properly considered the sales comparison approach along with the income approach in arriving at his opinion of value.

As stated in one authoritative text:

The valuation process is applied to develop a well-supported opinion of a defined value based on an analysis of pertinent general and specific data. Appraisers develop an opinion of property value with specific appraisal procedures that reflect three distinct methods of data analysis:

1. Cost
2. Sales comparison
3. Income capitalization

One or more of these approaches are used in all estimations of value; the approaches employed depend on the type of property, the intended use of the appraisal, the identified scope of work, and the quality and quantity of data available for analysis. . . .

Appraisers should apply all the approaches that are applicable and for which there is data. The alternative value indications derived can either support or refute one another.

Appraisal Institute, *The Appraisal of Real Estate* at 62 (12<sup>th</sup> ed. 2001).

The administrative judge finds that the parties' income approaches differ by an utterly insignificant 1%. The administrative judge finds the unusual reliability of the



income approach in this particular case is evidenced by the fact that Mr. Donovan and Ms. Sellers arrived at their indications of value independent of one another.

The administrative judge finds that Mr. Donovan's sales comparison approach must be considered unrefuted. However, the administrative judge finds that although the sales comparison should receive some weight, it cannot be considered nearly as reliable as the income approach in this particular appeal. The administrative judge finds that the preponderance of the evidence supports adoption of a value of \$7,250,000 after correlating the various indications of value.

Respectfully, the administrative judge finds that Ms. Sellers' equalization argument cannot provide a basis for a reduction in value. The administrative judge finds that the State Board of Equalization has historically adhered to a market value standard in the review of property assessments. See *Appeals of Laurel Hills Apartments, et al.* (Davidson County, Tax Years 1981 and 1982, Final Decision and Order, April 10, 1984). Under this theory, an owner of property is entitled to "equalization" of its demonstrated market value by a ratio which reflects the overall level of appraisal in the jurisdiction for the tax year in controversy. But the State Board has repeatedly refused to accept the **appraised** values of purportedly comparable properties as sufficient proof of the **market** value of a property under appeal. See, e.g., *Jerry L. & Margaret D. Jonakin* (Shelby County, Tax Years 1993 & 1994, Final Decision and Order, December 13, 1994), where the Assessment Appeals Commission declared that:

...[I]t is not our task to adjust one tax valuation to match or correspond with another. We may certainly consider the overall level of assessments in the jurisdiction for purposes of equalization relief...but the issue before us is the **market value** of the subject property...[Emphasis added.]

Id. at p. 2.

#### ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax years 2005 and 2006:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$1,440,000	\$5,810,000	\$7,250,000	\$2,900,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.


Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:



1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or
2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 1st day of February, 2007.

  
\_\_\_\_\_  
MARK J. MINSKY  
ADMINISTRATIVE JUDGE  
TENNESSEE DEPARTMENT OF STATE  
ADMINISTRATIVE PROCEDURES DIVISION

c: Ms. Betty A. Sellers  
Jo Ann North, Assessor of Property